

NUTRITION SERVICES DIVISION MANAGEMENT BULLETIN		No. 02-131
TO:	School Nutrition Program Sponsors	ISSUE DATE: December 2002
ATTENTION:	Food Service Director	
SUBJECT:	Final Rule on Alternatives to Standard Application and Meal Counting Procedures (Provisions 1, 2, and 3) and Provision 2 Guidance	
REFERENCE:	Title 7, Code of Federal Regulations Part 245.9	
SUPERSEDES:	Management Bulletin 00-104 (March 2000), Proposed Rule on Alternatives to Standard Application and Meal Counting Procedures	

This Management Bulletin (MB) provides the United States Department of Agriculture's (USDA) final rule that amends regulations governing the alternative meal claiming procedures known as Provisions 1, 2, and 3. This rule, effective October 22, 2001, amends the regulations governing Provisions 2 and 3 procedures and codifies Provision 3. There are no changes to Provision 1. This MB also provides the new Provision 2 Guidance for the National School Lunch and School Breakfast Programs. The Nutrition Services Division (NSD) will disseminate guidance on Provision 3 when it is received from USDA.

CHANGES TO PROVISIONS 2 AND 3

Base year:

For both Provisions 2 and 3, the base year must begin at the start of the school year [Title 7, Code of Federal Regulations (7 CFR) Sections 245.9(b)(6)(i) and 245.9(d)]. Sponsors are reminded that they must obtain prior approval from NSD to implement a provision at any/all sites.

Refer to Provision 2 Guidance, page 9, for information on implementation dates.

Delayed Implementation:

With prior NSD approval, schools may delay implementation of a Provision 2 base year for a period not to exceed the first claiming period of the school year in which the base year is established [245.9(b)(6)(ii)].

Refer to Provision 2 Guidance, page 9, for details on delayed implementation.

Re-naming of "Free Meals":

The final rule replaces the title "Free meals" in 245.9(b)(1) and 245.9(d)(1) with "Meals at no charge." The term "Free meals" may lead sponsors to believe that all meals served under Provisions 2 and 3 are reimbursed at the free rate. "Meals at no charge" simply means that the school does not charge any student for a meal. "Free meals" refers to a meal eligibility category that carries the highest rate of reimbursement.

School Food Authority-Wide Claiming Percentages:

The final rule does not include a provision for school food authority-wide claiming percentages. The weighting of the base year data would not reflect each school's contribution to the single claiming percentage. This would result in an inappropriate loss or gain of federal reimbursement during non-base years.

Annual Percentages:

As an alternative to using monthly claiming percentages after the base year, Provision 2 sponsors may use annual percentages [245.9(b)(3)(ii)].

Refer to Provision 2 Guidance, Appendix A, page 55, for instructions on using annual percentages.

Internal Controls:

Both Provision 2 and 3 sponsors are now required to establish a system of oversight during non-base years to ensure the accuracy of the monthly Claim for Reimbursement. Sponsors must compare each school's total daily meal counts to its enrollment, adjusted by an attendance factor [245.9(b)(4) and 245.9(d)(6)]. If the claim review suggests the likelihood of lunch count problems, the sponsor must provide the site with technical assistance, adjust the level of financial assistance from the state, or return the school to standard eligibility determination and meal-counting procedures.

When a sponsor operates Provision 2 or Provision 3 in the School Breakfast Program only, sponsors must continue to comply with the claims review procedures required in 7 CFR Section 210.8(a)(2) for the lunch program.

Refer to Provision 2 Guidance, page 7, and Appendix C, page 56, for information on the requirements for internal controls.

Negligible Improvement:

The final rule defines "Negligible Improvement" to mean 5 percent or less improvement, after adjusting for inflation, over the base year in the level of the socioeconomic indicator which is used to establish the income level of the school's population.

Refer to Provision 2 Guidance, page 25, for information on calculating changes in the socioeconomic indicator.

Streamlined Base Year:

The final rule adds an option for schools that are denied extensions of their Provision 2 or 3 cycle [245.9(c)(2)(iii) and 245.9(e)(2)]. Schools may now establish a "streamlined" base year, by utilizing either:

- 1) Enrollment based percentages, surveying a statistically valid proportion of households; or
- 2) Participation percentages, using a statistically valid proportion of participating students established over multiple operating days.

Schools electing to conduct a streamlined base year may not charge students who are eligible for reduced or full price meals.

Refer to Provision 2 Guidance, page 29, for details on a streamlined base year.

Daily Meal Counts and Residential Child Care Institutions (RCCIs):

The NSD may approve implementation of Provision 3 at an RCCI without requiring daily meal counts if the State is satisfied that enrollment, participation, and meal counts do not vary; and if there is an approved mechanism in place to ensure that students will receive reimbursable meals [245.9(d)(3)].

STATE AGENCY REQUIREMENTS

Notification of Expiration of Provision Cycle:

By February 15 (or other date established by NSD) each year, NSD shall send written notification to Provision 2 and 3 sponsors operating the last year of their provision cycle that they must either return to standard eligibility determination and meal counting procedures or apply for an extension under Provision 2 or 3 [245.11(h)(1)].

Provide Technical Assistance and/or Implement Corrective Action:

The NSD shall provide technical assistance, adjust the level of financial assistance for the current school year [245.11(h)(3)], and/or return a sponsor to standard eligibility determination and meal-counting procedures [245.11(h)(2)], as appropriate, if it is determined that:

- a) A sponsor has not implemented a Provision correctly;
- b) Meal quality has declined because of the implementation of a Provision;
- c) Program participation has declined over time;
- d) Eligibility or verification procedures were incorrectly implemented; or
- e) Meal counts were incorrectly collected or applied.

The Provision 2 Guidance and other federal guidance materials are available at the following web site:

<http://www.fns.usda.gov/cnd/guidance/default.htm>

Please share this information with your district/agency management and business personnel as appropriate. If you have any questions, please contact your nutrition services representative, the Field Services Unit at (916) 445-0850 or (800) 952-5609, or Christine Kavooras at (916) 322-3609 or ckavoora@cde.ca.gov.

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